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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91180460
Party	Plaintiff E. I. du Pont de Nemours and Company
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Signature	/dmd/
Date	07/03/2008
Attachments	Opposer's Motion to Compel Discovery and Request to Suspend Proceeding.pdf (7 pages)(273470 bytes) Exhibit 1 - Motion to Compel.pdf (8 pages)(242871 bytes) Exhibit 2 - Motion to Compel.pdf (17 pages)(686310 bytes) Exhibit 3 - Motion to Compel.pdf (6 pages)(162158 bytes) Exhibit 4 - Motion to Compel.pdf (4 pages)(124064 bytes) Exhibit 5 - Motion to Compel.pdf (2 pages)(57876 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/922,352
Published in the Official Gazette of July 17, 2007

E.I. DU PONT DE NEMOURS AND COMPANY,

Opposer,

v.

MELISSA J. TERZIS,

Applicant.

Opposition No. 91/180,460

Mark: **VELVET IN DUPONT**

**OPPOSER'S MOTION TO COMPEL DISCOVERY UNDER
37 C.F.R. 2.120(e) AND REQUEST TO SUSPEND PROCEEDING**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Opposer E.I. du Pont de Nemours and Company ("Opposer") submits this Motion to Compel Discovery under 37 C.F.R. 2.120(e) and Rule 37 of the Federal Rules of Civil Procedure. Applicant Melissa J. Terzis ("Applicant") has not produced any documents in response to any of Opposer's document requests and otherwise has not provided any substantive responses to Opposer's First Set of Interrogatories, First Request for Production of Documents and Things and First Requests for Admissions ("Discovery Requests").

Pursuant to 37 C.F.R. 2.120(e)(2), and TBMP § 523.01, Opposer also moves this Board to suspend these proceedings and all deadlines in these proceedings until such time as Applicant responds to all of the outstanding discovery requests.

1. Background

Applicant filed the opposed application to register VELVET IN DUPONT for “writing of texts other than publicity texts” in Class 41 on July 5, 2006. Opposer commenced this Opposition Proceeding on October 31, 2007. Applicant filed its Answer to Opposer’s Notice of Opposition on December 3, 2007. Discovery was set to close on May 18, 2008. Since May 18, 2008 was a Sunday, pursuant to 37 CFR §2.196 and TBMP §112, service of discovery would be permitted on the next business day, namely, Monday, May 19, 2008.

On May 19, 2008, Opposer served its First Set of Interrogatories, attached hereto as Exhibit 1, its First Request for Production of Documents and Things, attached hereto as Exhibit 2 and its First Requests for Admissions, attached hereto as Exhibit 3 (“Discovery Requests”) via first class mail. Responses were due to be served by Applicant on or before June 23, 2008. To date Applicant has not substantively responded to any of Opposer’s Discovery Requests.

Rather than respond, Applicant has engaged in a practice of filing a series of spurious blanket “Objections”, “Supplemental Objections” and related submissions (“Objections”) to Opposer’s Discovery Requests¹. These Objections include: a) an outrageous claim that Opposer falsified the Certificates of Service for the discovery

¹ See generally, Applicant’s Objections to Opposer’s First Set of Interrogatories, dated May 23, 2008; Applicant’s Objections to Opposer’s First Request for Production of Documents and Things, dated May 23, 2008; Applicant’s Objections to Opposer’s First Requests for Admissions, dated May 23, 2008; Applicant’s Supplemental Objection To Opposer’s First Request for Admissions, dated June 10, 2008; Applicant’s Supplemental Objection To Opposer’s First Request For Production of Documents and Things, dated June 13, 2008; Applicant’s Reply to Opposer’s Response to Applicant’s Supplemental Objections to Opposer’s First Requests for Admissions, dated June 24, 2008; and Applicant’s Reply To Opposer’s Response to Applicant’s Objections To Opposer’s First Set of Discovery Requests and Things.

documents based on nothing more than the fact that the Certificates were dated on May 19 in New York and Applicant and her attorney did not receive the discovery documents in the mail in Washington D.C. and Connecticut until May 21, *only two days later*; b) a total refusal to provide any response to Opposer's Requests for Admission on the grounds that the requests had been sufficiently addressed, to Applicants satisfaction, in Applicant's Answer to the Notice of Opposition filed six months previously;² and c) a total refusal to produce any documents in response to Opposer's Request for Production of Documents on the ground that the documents sought could somehow be located through Opposer's "own computers and computer software programs" and through various governmental agencies including "the District of Columbia Registered Organizations, the Department of Consumer, the Department of Regulatory Affairs and other agencies."³

As was the case with all the Objections, Opposer did not see fit to cite any supporting statutes, rules, regulations or case law nor has it made any attempt to comply with the Trademark Trial and Appeal board rules for discovery or motion practice.

These unjustified Objections are part of an overall effort by Applicant to frustrate Opposer's efforts to conduct discovery and flaunt the applicable rules of discovery and motion practice

² See generally, Applicant's Supplemental Objection To Opposer's First Request for Admissions dated June 10, 2008.

³ See generally, Applicant's Supplemental Objection To Opposer's First Request For Production of Documents and Things dated June 13, 2008 and at p. 5.

To date, Applicant has not provided any substantive response to a single discovery request. It has not produced a single document. It has not responded to a single Interrogatory or Request for Admission.

2. Legal Standard

Under 37 C.F.R. 2.120(e), if a party fails to answer any questions propounded in a discovery interrogatory or fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion before the Trademark Trial and Appeal Board for an order to compel the answer or production.

3. The Good Faith Efforts to Resolve the Issues

As stated above, Opposer's Discovery Requests were served on May 19, 2008 via first class mail. As a result, Applicant's discovery responses were due on June 23, 2008. Applicant did not try to contact Opposer to request an extension of time to respond to the discovery requests.

Opposer has attempted in good faith, to resolve with Applicant the issues presented in this motion. Opposer sent communications to Applicant's attorney and Applicant on June 27, 2008 and July 1, 2008 informing Applicant that Opposer would file the present Motion if responses were not received to the outstanding Discovery Requests (*see* Exhibit 4). In the same communications, Opposer stated that it wished to resolve the discovery disputes without the necessity of this Motion and requested Applicant to inform Opposer if there was a way in which the discovery disputes could be resolved. On the afternoon of July 1, 2008, Opposer

received a letter, dated June 28, 2008, from Applicant's attorney indicating that in view of Applicant's pending Objections, Applicant believed Opposer's Motion to Compel to be premature and made no offers to otherwise resolve the discovery issues. A copy of this letter is attached hereto as Exhibit 5.

Opposer therefore believes that further communications of this nature with Applicant will not be productive.

Although counsel for Applicant refers to Applicant's Objections in his letter dated June 28, 2008, none of the Objections comply with the Federal Rules of Civil Procedure or the Trademark Trial and Appeal Board rules of discovery and motion practice. Moreover, in view of Applicant's apparent desire to file multiple objections and supplemental objections rearguing the same issues, Opposer believes the issues can best be resolved before a single motion, namely, by a Motion To Compel.

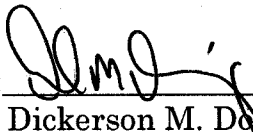
This motion has been filed prior to the commencement of the first testimony period, specifically, July 17, 2008.

WHEREFORE, based on the foregoing, and as the first testimony period commences for Opposer on July 17, 2008 and as Applicant has not responded to Opposer's discovery requests and has not produced any responsive documents to any discovery requests, Opposer respectfully requests that this Board grant this Motion and issue an Order to Compel Applicant's Discovery.

Dated: New York, New York
July 3, 2008

Respectfully submitted,

CROWELL & MORING LLP

By: 
Dickerson M. Downing
Julia K. Smith
153 East 53rd Street
31st Floor
New York, New York 10022

Attorneys for
E.I. du Pont de Nemours and Company

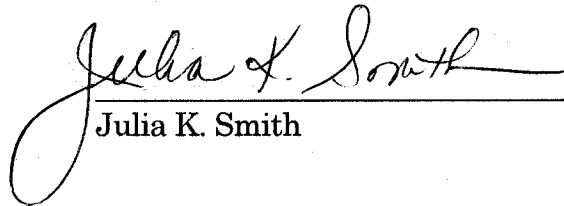
CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of July 2008, a true and correct copy of the foregoing document was served on counsel for the Applicant, by first class mail to:

John E. Terzis, Esq.
15 Revere Road, Riverside
Greenwich, CT 06878-1014

and

Melissa J. Terzis
1700 17th Street NW, Apt. 404
Washington, D.C. 20009



Julia K. Smith

EXHIBIT 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/922,352

E.I. DU PONT DE NEMOURS AND COMPANY,

Opposer,

v.

MELISSA J. TERZIS,

Applicant.

Opposition No. 91/180,460

Mark: **VELVET IN DUPONT**

OPPOSER'S FIRST SET OF INTERROGATORIES

Opposer E.I. du Pont de Nemours and Company ("Opposer"), hereby requests that Applicant Melissa J. Terzis ("Applicant"), respond in full to the Interrogatories set forth below, pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure.

DEFINITIONS

For the purposes of these Interrogatories, Opposer incorporates by reference the Definitions set forth in "Opposer's First Request for the Production of Documents and Things."

INSTRUCTIONS

1. In answering these Interrogatories furnish all information, however obtained, that is available to Applicant or subject to Applicant's reasonable inquiry,

access or control, including information in the actual or constructive possession or control of Applicant or Applicant's attorneys, experts, and anyone else acting on its behalf.

2. If the response to any Interrogatory makes reference to records from which the answer may be derived or ascertained from documents, as permitted by Rule 33(d) of the Federal Rules of Civil Procedure, the response to each such Interrogatory so answered shall comply in all respects with the requirements of Rule 33(d).

3. If any part of any Interrogatory is objected to, set forth the basis of the objection and respond to all parts of the Interrogatory to which Applicant does not object pursuant to Federal Rule of Civil Procedure 33. If any Interrogatory is not answered in full, state the precise reason for failing to do so. If a legal objection is made, set forth the specific nature of grounds for that objection. If only a portion of any Interrogatory cannot or will not be answered, (i) provide a full answer to the remaining portion, and (ii) specifically set forth (a) the fact that the answer is incomplete and (b) the reasons or grounds for any omission or for the inability or refusal to complete the answer. If an Interrogatory can be answered only in part on the basis of information available at the time of the response, (i) provide an answer on the basis of that information, (ii) indicate that the answer is so limited, and (iii) provide a further response, in accordance with paragraph 4 of these Instructions, when further information becomes available.

4. To the extent that Applicant learns at any time that its response to any of these Interrogatories and/or requests is in any respect incomplete or incorrect, Applicant shall promptly serve amended responses that are complete and correct pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

5. The scope of each Interrogatory and/or request is unlimited as to time unless specified otherwise in the individual Interrogatory or request.

INTERROGATORIES

INTERROGATORY NO. 1:

Describe the nature of the services rendered by Applicant in connection with the VELVET IN DUPONT Mark including a description of the subject matter and content of the written and graphic material distributed or disseminated by or on behalf of Applicant in connection with that Mark.

INTERROGATORY NO. 2:

Describe any incident in which any person has objected to, criticized or otherwise made unfavorable comments pertaining to the written or graphic material distributed or disseminated by or on behalf of Applicant in connection with the VELVET IN DUPONT Mark.

INTERROGATORY NO. 3:

Describe the circumstances and state the date of first use of the VELVET IN DUPONT Mark and the date of first use of the VELVET IN DUPONT Mark in commerce in connection with:

- a) any website or blog owned or operated by Applicant including *www.velvetindupont.com*;
- b) each of the services listed in the VELVET IN DUPONT application; and
- c) any other goods and services that have been offered for sale or sold in connection with the VELVET IN DUPONT Mark.

INTERROGATORY NO. 4:

Describe the readers of the material disseminated or distributed by or on behalf of Applicant in connection with the VELVET IN DUPONT Mark in terms of age, gender, geographic location, or any other demographic information known to Applicant.

INTERROGATORY NO. 5:

Identify all businesses located in the Dupont Circle area of Washington, D.C. that use the name DUPONT as part of their corporate trade name or as a trademark or service mark.

INTERROGATORY NO. 6:

State the reasons why Applicant changed her address with the U.S. Patent and Trademark Office on or about August 23, 2006 to 127 Hawthorne Drive, Jupiter, Florida 33458.

INTERROGATORY NO. 7:

Describe the process that resulted in the selection of the VELVET IN DUPONT Mark, the reasons why it was selected, what other marks were under consideration and the reasons those marks were not chosen, and the extent to which the decision was influenced by prior use of any other name or mark by any other party including Opposer and the DuPont Mark.

INTERROGATORY NO. 8:

Describe each instance in which any person has expressed confusion or mistake or has otherwise made inquiries or comments about the possible affiliation or relationship between Applicant or Applicant's VELVET IN DUPONT Mark and any other third party or any other mark used by a third party, including Opposer and the DuPont Mark.

INTERROGATORY NO. 9:

Describe each instance in which a person has inquired about or commented on the similarities between the VELVET IN DUPONT Mark and the DuPont Mark.

INTERROGATORY NO. 10:

To the extent that Applicant contends that Opposer's rights in the DUPONT Mark are diluted or weakened by third party usage, describe in detail the basis for such contention and identify all such third party usage.

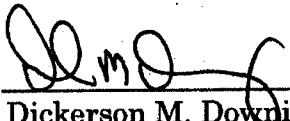
INTERROGATORY NO. 11:

To the extent that any response by Applicant to Opposer's accompanying First Request for Admissions is other than an unqualified admission describe the basis and all facts that support Applicant's response.

Respectfully submitted,

CROWELL & MORING LLP

Dated: New York, New York
May 19, 2008

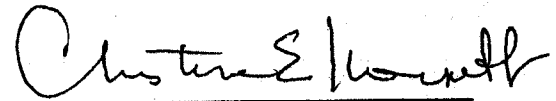
By: 
Dickerson M. Downing
153 East 53rd Street
31st Floor
New York, New York 10022
Attorneys for
E.I. DU PONT DE NEMOURS AND
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of May 2008, a true and correct copy of the foregoing document was served on counsel for the Applicant, by first class mail to:

John E. Terzis, Esq.
15 Revere Road, Riverside
Greenwich, CT 06878-1014

Melissa J. Terzis
1700 17th Street NW, Apt. 404
Washington, D.C. 20009

A handwritten signature in cursive script, appearing to read "Christine E. Kornett", written over a horizontal line.

Christine E. Kornett

EXHIBIT 2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/922,352

E.I. DU PONT DE NEMOURS AND COMPANY,

Opposer,

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MELISSA J. TERZIS,

Applicant.

Opposition No. 91/180,460

Mark: **VELVET IN DUPONT**

**OPPOSER'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS AND THINGS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Patent and Trademark Office Rules of Practice, Opposer E.I. du Pont de Nemours and Company, hereby requests that Applicant Melissa J. Terzis, produce the documents and things identified below for inspection and copying at the offices of Crowell & Moring, LLP, 153 East 53rd Street, 31st Floor, New York, New York 10022, within thirty (30) days of the date of service hereof or at such other time and place as may be mutually agreed upon by the parties.

DEFINITIONS

The following definitions and instructions are applicable to these discovery requests:

1. All definitions set forth in Section 45 the United States Trademark Act of 1946, as amended ("Lanham Act"), are incorporated herein, except as otherwise indicated.

2. *Applicant* shall mean Melissa J. Terzis and all other persons acting on her behalf.

3. *Applicant's VELVET IN DUPONT Application* shall mean the United States Trademark Application No. 78/922,352.

4. *Applicant's VELVET IN DUPONT Mark* shall mean the VELVET IN DUPONT Mark shown in Applicant's VELVET IN DUPONT Application and any variations therein as used or expected to be used by Applicant (without any admission by Opposer as to Applicant's rights to own that Mark).

5. *Opposer* shall mean E.I. du Pont de Nemours and Company and any parent and predecessors, as well as any divisions, branches, subsidiaries, affiliates, related companies or companies sharing common ownership or control and present and former officers, directors, employees, agents and representatives, servants and attorneys, and all other persons acting on its behalf.

6. *Opposer's DuPont Mark* shall mean the name and mark DuPont and all variations thereon as used by Opposer.

7. *Communication* shall mean the act of communicating, exchanging or transferring information between or among any persons, whether orally or in writing or by other means.

8. *Describe* shall mean to give a detailed account of the salient characteristics of the subject action, event or occurrence at issue, including, where applicable, a narrative as to what transpired and a summary of any communications that took place, a statement as to the relevant dates and locations at issue, and the identification of all persons involved.

9. *Document* shall be defined in the broadest sense permissible under Rule 34 of the Federal Rules of Civil Procedure and includes, without limitation, all forms of recorded, stored, reproducible, retrievable or transferable information and other content, in text, graphic, audio-video, magnetic, computer readable or other form regardless of the nature of the information or content and regardless of the medium in which said information or content is recorded, stored, reproduced, retrieved, transferred as well as copies thereof to the extent that said copy contains markings, alterations, or deletions not appearing in the original.

10. *Identify*, when referring to a document, means to provide information regarding the type of document (e.g., letter, notebook, etc.), the date of the document (and, if no date appears thereon, the response shall so state and shall give the date or approximate date that such document was prepared), the title of the document, a brief summary of the subject matter of the document, the identification of the person who prepared the document, the identification of the person who signed the document, the identification of the person for whom the document was prepared,

and the identification of the recipient or addressee of the document (whether specifically named therein or not); in addition, if the document requested to be identified is not in the possession, custody, or control of Applicant, the identification of the person who has possession, custody, or control over the original of the document, and each person who has possession, custody, or control over each copy of the document; furthermore, if the document requested to be identified has been destroyed, state the date the document was destroyed, the reason for its destruction, and the identification of the person who destroyed the document and of any person who directed that the document be destroyed.

11. *Identify*, when referring to advertisements, promotional materials, and/or marketing materials, means to provide a description of the form and medium of the materials, the inclusive dates of use for the materials, the geographic area in which the materials appeared, the class or classes of persons or business entities to whom the materials were directed, and the dollar amount per year expended on each form and medium of such material.

12. *Identify*, when used in connection with a natural person means to provide the person's name, home address, business address, occupation, position of employment and employer.

13. *Identify*, when referring to a person other than a natural person, means to provide information regarding its full name and type of organization, and the address of its principal place of business (including street name and number, city or town, state, zip code, and telephone number).

14. *Interrogatory* shall mean an Interrogatory contained in Opposer's First Set of Interrogatories.

15. *Mark* shall mean, as appropriate, any registered or common law trademark, service mark, collective mark, certification mark and trade name.

16. *Pertaining or pertain to* shall be an inclusive and comprehensive term meaning concerning, relating to, referring to, regarding, having any relationship with, pertaining to, evidencing, or constituting evidence of, in whole or in part, the subject matter of the particular request

17. *Specimen* shall mean materials or things bearing a display of or depiction of a Mark.

18. *Survey* shall mean any survey, poll, questionnaire, focus group or other research or experiment intended to quantitatively or qualitatively evaluate or measure the opinion, belief, perception or reaction of consumers or some other designated group of persons.

19. *Third party* refers to any person other than Applicant and, except as otherwise indicated, Opposer.

20. Each discovery request shall be inclusive, rather than exclusive. Accordingly, the words *and* as well as *or* shall be construed disjunctively or conjunctively as necessary, in order to bring them within the scope of these Requests for Production all information that might otherwise be construed to be outside its scope. *Including* shall be construed to mean *without any limitation*. The word *all* includes *any* and vice versa. The past tense shall include the present tense and the present tense shall include the past tense. The singular shall be deemed to

include the plural and vice versa. The masculine includes the feminine and vice versa.

INSTRUCTIONS

The following instructions shall apply:

1. All instructions and requirements set forth in the Federal Rules of Civil Procedure and the appropriate United States Patent and Trademark Office Rules of Practice applicable to proceedings before the Trademark Trial and Appeal Board shall apply herein.

2. These requests are continuing in nature. Pursuant to Federal Rule of Civil Procedure 26, Applicant has a duty to supplement its answers promptly upon obtaining or learning of further material information.

3. If Applicant claims that any requested information is protected from discovery by any privilege against disclosure, Applicant must specify the privilege with particularity and state the basis for the assertion of the privilege with respect to the information in question. In its response, as to each communication or document withheld, Applicant must furnish a list specifying the following information:

- a) the name and title of each author;
- b) the name and title of each recipient;
- c) the date of the communication;
- d) the nature of the communication;
- e) the length or number of pages; and
- f) the general subject matter of the information or document.

REQUESTS FOR PRODUCTION

DOCUMENT REQUEST NO. 1:

Copies of all written and graphic material disseminated by or on behalf of Applicant in connection with the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 2:

All documents and things that pertain to any objections, criticisms or unfavorable comments made by any third party regarding any written or graphic material disseminated or distributed by or on behalf of Applicant in connection with the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 3:

All documents and things that support Applicant's contention, as set forth in its Answer, that Applicant has used the mark VELVET IN DUPONT in connection with a blog since June 2005.

DOCUMENT REQUEST NO. 4:

All documents and things that support Applicant's contention, as set forth in its Answer, that Opposer uses the mark DuPont as two words.

DOCUMENT REQUEST NO. 5:

All documents and things that pertain to Applicant's contention, as set forth in its Answer, that at least twenty (20) different businesses in the Dupont Circle area of Washington, D.C. use the name DUPONT.

DOCUMENT REQUEST NO. 6:

All documents and things that support Applicant's contention, as set forth in its Answer, that it is patently obvious that the Dupont Circle area of Washington, D.C. has hundreds of small businesses with the name DUPONT in their corporate partnership and individual names.

DOCUMENT REQUEST NO. 7:

All documents and things that pertain to Applicant's contention, as set forth in Paragraph 7 of its Answer, that Applicant uses the VELVET IN DUPONT trade mark in connection with a blog that was created and consistently used since June 2005 in order to write about the happenings concerning Dupont Circle area in Washington, D.C.

DOCUMENT REQUEST NO. 8:

All documents and things that pertain to Applicant's VELVET IN DUPONT Trademark Application including all submissions and filings made by Applicant with the United States Patent and Trademark Office ("USPTO") and all communications, including Office Actions and Office Action Responses, between Applicant and any USPTO representatives pertaining thereto.

DOCUMENT REQUEST NO. 9:

All documents and things that pertain to Applicant's first use of the VELVET IN DUPONT Mark and first use of the VELVET IN DUPONT Mark in commerce in connection with

- a) www.velvetindupont.com or any blog or website using a domain name incorporating the word dupont;

- b) each of the services listed in Applicant's VELVET IN DUPONT Application;
- c) each other different product or service (if any); and
- c) any signage in stores or business locations.

DOCUMENT REQUEST NO. 10:

Documents and things sufficient to provide complete and comprehensive information pertaining to the nature of the business conducted or services rendered by Applicant in connection with the VELVET IN DUPONT Mark, the locations where such activities are or have been conducted or are expected to be conducted and the time period during which such activities have been conducted or are expected to be conducted at each location.

DOCUMENT REQUEST NO. 11:

All documents and things that pertain to the selection of the VELVET IN DUPONT Mark by Applicant and the origins of the mark, including the reasons why the mark was selected and why other marks under consideration were not selected.

DOCUMENT REQUEST NO. 12:

Documents and things sufficient to demonstrate the manner in which Applicant has used the VELVET IN DUPONT Mark, including representative specimens reflecting each different type of use and the time periods and locations where the mark has been in use for each different type of product or service.

DOCUMENT REQUEST NO. 13:

Documents and things sufficient to show the manner in which Applicant plans to use the VELVET IN DUPONT Mark in the future including representative specimens reflecting each different type of intended use.

DOCUMENT REQUEST NO. 14:

Documents and things sufficient to show to class of customers to whom Applicant has sold or provided or plans to sell or provide goods and services in connection with the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 15:

Documents and things sufficient to reflect the channels of trade in which Applicant has sold or provided or plans to sell or provide goods and services in connection with the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 16:

Documents and things sufficient to reflect the geographic areas in which Applicant has sold or provided or plans to sell or provide goods and services in connection with the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 17:

Documents and things sufficient to show the geographical place of residence of consumers of Applicant's goods and services under the VELVET IN DUPONT Mark and readers of Applicant's blog at www.velvetindupont.com

DOCUMENT REQUEST NO. 18:

All documents and things that pertain to any agreement to which Applicant is a party that pertains to the right to own, use, franchise, license or transfer the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 19:

All documents and things that pertain to any instance in which anyone has expressed confusion or mistake or has made inquiries or comments regarding the possible relationship or business affiliation between Applicant or Applicant's VELVET IN DUPONT Mark and any other person or any other mark including Opposer and Opposer's DuPont Mark.

DOCUMENT REQUEST NO. 20:

All documents and things that pertain to any instance in which a person has referred to the similarity between Opposer's DuPont Mark and the VELVET IN DUPONT Mark or has inquired into or commented upon the relationship between Applicant and Opposer or Opposer's DuPont Mark.

DOCUMENT REQUEST NO. 21:

All documents and things that pertain to any inquiry, investigation, search (including trademark search), opinion or determination by or on behalf of Applicant as to the availability the VELVET IN DUPONT Mark or any variations thereon for use in any service or product area or the possible likelihood of confusion between the VELVET IN DUPONT Mark and any other Mark.

DOCUMENT REQUEST NO. 22:

All documents and things pertaining to Applicant's knowledge of:

- a) Opposer; and
- b) The use by Opposer of the DuPont Mark,

currently and at the time Applicant made the initial decision to adopt the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 23:

All documents and things that pertain to any surveys regarding:

- a) the public recognition of the VELVET IN DUPONT Mark; and
- b) the likelihood of confusion between the VELVET IN DUPONT Mark and any other Mark including Opposer's DuPont Mark.

DOCUMENT REQUEST NO. 24:

Documents and things sufficient to provide complete and comprehensive information regarding any advertising and promotion efforts conducted by or expected to be conducted by Applicant in connection with the VELVET IN DUPONT Mark including information pertaining to the nature and content of the advertising and promotional materials and where and when it occurred.

DOCUMENT REQUEST NO. 25:

Sufficient representative specimens of advertising (including video or audio tapes and website promotions), brochures, pamphlets, catalogs, sales manuals, price lists, promotional material or other material used or planned to be used by Applicant in connection with the VELVET IN DUPONT Mark as to provide a

comprehensive and complete representation of said advertising and promotional activities.

DOCUMENT REQUEST NO. 26:

Documents and things reflecting the acquisition by Applicant of each domain name that it currently owns that incorporates the VELVET IN DUPONT Mark or any other name that begins with the letters "du," including DUPONT.

DOCUMENT REQUEST NO. 27:

Documents and things sufficient to show complete and comprehensive information pertaining to Applicant's annual and year-to-date sales, if any, in units and dollars, of each product and service sold by Applicant in commerce in connection with the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 28:

Documents and things sufficient to provide complete and comprehensive information pertaining to the monetary amount expended by Applicant in connection with advertising and promotion in connection with the VELVET IN DUPONT Mark.

DOCUMENT REQUEST NO. 29:

All documents and things that pertain to any instance in which:

- a) Applicant has objected to or has given its intention to object to any third party use or registration of any name or mark based on Applicant's claim of ownership of the VELVET IN DUPONT Mark, including but not limited to all forms of communications in which said objections were discussed, all legal actions

pertaining thereto, and the results of such objection(s) (if any);
and

- b) any third party has objected to or has given its intention to object to Applicant's use or registration of the VELVET IN DUPONT Mark, including but not limited to all forms of communications in which said objections were discussed, all legal actions pertaining thereto, and the results of such objection(s) (if any).

DOCUMENT REQUEST NO. 30:

All documents and things pertaining to any steps Applicant has taken to protect and enforce the VELVET IN DUPONT Mark, including but not limited to Opposition proceedings, cease and desist letters, infringement suits and/or license negotiations.

DOCUMENT REQUEST NO. 31:

All documents and things pertaining to future plans with respect to the use of any VELVET IN DUPONT Mark including, but not limited to, all business plans, franchise plans, marketing plans or other documents relating to any new products or services to be offered.

DOCUMENT REQUEST NO. 32:

All documents and things that pertain to any testimony expected to be given in this proceeding involving an expert witness.

DOCUMENT REQUEST NO. 33:

All documents and things Applicant intends to rely on or introduce into evidence at trial in this proceeding before the Trademark Trial and Appeal Board.

DOCUMENT REQUEST NO. 34:

All documents and things that support or pertain to Applicant's affirmative defense that is entitled to obtain a registration for the mark VELVET IN DUPONT for use in connection with "writing of texts other than publicity texts," in International Class 41.

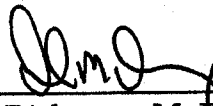
DOCUMENT REQUEST NO. 35:

To the extent that any response by Applicant to Opposer's accompanying First Request for Admissions is other than an unqualified admission produce all documents and things that support Applicant's response.

Dated: New York, New York
May 19, 2008

Respectfully submitted,

CROWELL & MORING LLP

By: 
Dickerson M. Downing
153 East 53rd Street
31st Floor
New York, New York 10022
Attorneys for
E.I. DU PONT DE NEMOURS AND
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of May 2008, a true and correct copy of the foregoing document was served on counsel for the Applicant, by first class mail to:

John E. Terzis, Esq.
15 Revere Road, Riverside
Greenwich, CT 06878-1014

Melissa J. Terzis
1700 17th Street NW, Apt. 404
Washington, D.C. 20009

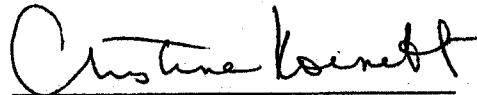

Christine Kornett

EXHIBIT 3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/922,352

E.I. DU PONT DE NEMOURS AND COMPANY,

Opposer,

v.

MELISSA J. TERZIS,

Applicant.

Opposition No. 91/180,460

Mark: **VELVET IN DUPONT**

OPPOSER'S FIRST REQUESTS FOR ADMISSIONS

Opposer E.I. du Pont de Nemours and Company ("Opposer"), hereby requests that Applicant Melissa J. Terzis ("Applicant"), admit or deny the truth of each of the statements set forth below within thirty (30) days of service thereof pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure.

DEFINITIONS

For the purposes of these Requests for Admission, Opposer incorporates by reference the Definitions set forth in "Opposer's First Request for the Production of Documents and Things."

REQUESTS

Opposer hereby requests that Applicant admit or deny the following:

REQUEST FOR ADMISSION NO. 1:

Opposer's DuPont Mark is famous in the United States.

REQUEST FOR ADMISSION NO. 2:

Applicant was aware of Opposer's use of the DuPont Mark in commerce prior to the date Applicant made the decision to adopt the VELVET IN DUPONT Mark.

REQUEST FOR ADMISSION NO. 3:

Applicant was aware of Opposer's use of the DuPont Mark in commerce prior to the date Applicant made the decision to adopt any name or mark incorporating the term DUPONT.

REQUEST FOR ADMISSION NO. 4:

Opposer's DuPont Mark was famous in the United States prior to the filing date of Applicant's VELVET IN DUPONT Mark.

REQUEST FOR ADMISSION NO. 5:

Opposer's DuPont Mark was famous in the United States prior to the filing date of the first application by Applicant to register any name or mark incorporating the term DUPONT in the United States Patent and Trademark Office.

REQUEST FOR ADMISSION NO. 6:

Opposer's DuPont Mark was famous in the United States prior to the date of first use by Applicant of the VELVET IN DUPONT Mark.

REQUEST FOR ADMISSION NO. 7:

Opposer's DuPont Mark was famous in the United States prior to the date of first use in commerce by Applicant of the VELVET IN DUPONT Mark.

REQUEST FOR ADMISSION NO. 8:

Opposer's DuPont Mark was famous in the United States prior to the date of first use by Applicant of any name or mark incorporating the term DUPONT.

REQUEST FOR ADMISSION NO. 9:

Opposer's DuPont Mark was famous in the United States prior to the date of first use in commerce by Applicant of any name or mark incorporating the term DUPONT in the United States Patent and Trademark Office.

REQUEST FOR ADMISSION NO. 10:

The use by Applicant of the VELVET IN DUPONT Mark is likely to cause confusion with Opposer's DuPont Mark.

REQUEST FOR ADMISSION NO. 11:

The use by Applicant of the VELVET IN DUPONT Mark is likely to cause dilution of Opposer's DuPont Mark.

REQUEST FOR ADMISSION NO. 12:

The registration by Applicant of the VELVET IN DUPONT Mark is likely to cause confusion with Opposer's DuPont Mark.

REQUEST FOR ADMISSION NO. 13:

The registration by Applicant of the VELVET IN DUPONT Mark is likely to cause dilution of Opposer's DuPont Mark.

Respectfully submitted,

CROWELL & MORING LLP

Dated: New York, New York
May 19, 2008

By: 

Dickerson M. Downing

153 East 53rd Street

31st Floor

New York, New York 10022

Attorneys for

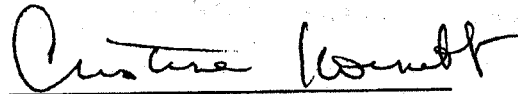
E.I. DU PONT DE NEMOURS AND
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of May 2008, a true and correct copy of the foregoing document was served on counsel for the Applicant, by first class mail to:

John E. Terzis, Esq.
15 Revere Road, Riverside
Greenwich, CT 06878-1014

Melissa J. Terzis
1700 17th Street NW, Apt. 404
Washington, D.C. 20009

A handwritten signature in cursive script, appearing to read "Christine Kornett", written over a horizontal line.

Christine Kornett

EXHIBIT 4

Smith, Julia

From: Kornett, Christine
Sent: Friday, June 27, 2008 2:27 PM
To: 'jterzis@excite.com'
Cc: 'mterzis@yahoo.com'; Downing, Dickerson; Smith, Julia
Subject: FW: J.Terzis - Opposition Proceeding VELVET IN DUPONT

Attachments: VELVET IN DUPONT 91180460.pdf

Mr. Terzis,

Please find attached a letter from Mr. Downing regarding the Opposition Proceeding of VELVET IN DUPONT.

Thank you,

Christine Kornett
IP Secretary
Crowell & Moring LLP
153 East 53rd Street
New York, NY 10022
(212) 895-4248

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-----Original Message-----

From: NYecopy
Sent: Friday, June 27, 2008 2:21 PM
To: Kornett, Christine
Subject: J.Terzis - Opposition Proceeding VELVET IN DUPONT

024941.04226US



/ELVET IN DUPONT
91180460.pdf ...

June 27, 2008

CAM: 024941.04226US

VIA E-MAIL jterzis@excite.com
CONFIRMATION FIRST CLASS MAIL

John E. Terzis, Esq.
15 Revere Road, Riverside
Greenwich, CT 06878-1014

Re: E.I. DU PONT DE NEMOURS AND COMPANY v. MELISSA J. TERZIS
Opposition No. 91/180,460
Mark: VELVET IN DUPONT

Dear Mr. Terzis:

Please be advised that we are planning to file a Motion to Compel in the above-referenced Opposition Proceeding requesting the Board to order Applicant to respond to Opposer's First Set of Interrogatories, First Requests for Production of Documents and Things, and First Requests for Admissions. We would like to determine if it is possible to resolve the discovery disputes in the instant proceeding in order to avoid the necessity of this Motion. Please advise if you have any thoughts regarding how we can resolve the discovery issues. In view of your prior position as stated in your Objections, if we do not hear from you promptly, we will assume that you do not wish to resolve this matter amicably.

Very truly yours,


Dickerson M. Downing

DMD/ck

cc: Melissa J. Terzis (via first class and email: mterzis@yahoo.com)

NYIWDMS: 10590275_1

Smith, Julia

From: Downing, Dickerson
Sent: Tuesday, July 01, 2008 1:35 PM
To: 'jterzis@excite.com'
Cc: 'mterzis@yahoo.com'; Smith, Julia; Kornett, Christine
Subject: Discovery Issues: Velvet in Dupont Opposition (Opp. No. 91-180,460)

Attachments: VELVET IN DUPONT 91180460.pdf



/ELVET IN DUPONT
91180460.pdf ...

Mr. Terzis - In following up on my letter of June 27, please advise if you have any proposals for resolving the discovery issues in this Opposition.

Dickerson M. Downing
Crowell & Moring, LLP
153 East 53rd Street
31st Floor
New York, New York 10022
(212) 895-4212
(212) 895-4201 (Facsimile)

-----Original Message-----

From: Kornett, Christine
Sent: Friday, June 27, 2008 2:27 PM
To: 'jterzis@excite.com'
Cc: 'mterzis@yahoo.com'; Downing, Dickerson; Smith, Julia
Subject: FW: J.Terzis - Opposition Proceeding VELVET IN DUPONT

Mr. Terzis,

Please find attached a letter from Mr. Downing regarding the Opposition Proceeding of VELVET IN DUPONT.

Thank you,

Christine Kornett
IP Secretary
Crowell & Moring LLP
153 East 53rd Street
New York, NY 10022
(212) 895-4248

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Sent: Friday, June 27, 2008 2:21 PM
To: Kornett, Christine
Subject: J.Terzis - Opposition Proceeding VELVET IN DUPONT

024941.04226US

EXHIBIT 5

JOHN E. TERZIS
Attorney and Counselor at Law
15 Revere Road, Riverside
Greenwich, CT 06878-1014
Tel. and Fax 203-637-1216

June 28, 2008

Dickerson M. Downing, Esq.
Crowell & Moring LLP
153 East 53rd Street, 31st Floor
New York, N.Y. 10022

Re: E.I. du Pont de Nemours and Company v. Melissa J. Terzis
Trademark Trial and Appeal Board - Proceeding No. 91180460

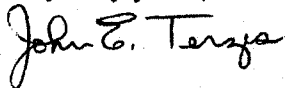
Dear Attorney Downing:

With respect to your e-mail letter dated June 27, 2008, this is to advise you that the Trademark Trial and Appeal Board has yet to rule on Applicant's pending Objections:

- a. Applicant's Objections to Opposer's First Request for Admissions dated May 23, 2008;
- b. Applicant's Objection to Opposer's First Set of Interrogatories dated May 23, 2008;
- c. Applicant's Objection to Opposer's First Request for Production of Documents and Things dated May 23, 2008;
- d. Applicant's Supplemental Objection to Opposer's First Request for Admissions dated June 10, 2008;
- e. Applicant's Supplemental Objection to Opposer's First Request for Production of Documents and Things dated June 13, 2008; and
- f. Applicant's Reply to Opposer's Response to Applicant's Supplemental Objections to Opposer's First Request for Admissions dated June 24, 2008.

Your current plan to file a Motion to Compel compliance with your untimely Discovery is in complete violation of the Court Ordered Discovery Order dated October 31, 2007, and is premature and moot.

Very truly yours,



cc: Commissioner of Trademarks, Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451